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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/998,491

11/30/2001

Radmila Mileusnic

3578-120

6361

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12/13/2006

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

EXAMINER

SEHARASEYON, JEGATHEESAN

ART UNIT

PAPER NUMBER

1647

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/998,491	MILEUSNIC ET AL.	
	Examiner	Art Unit	
	Jegatheesan Seharaseyon, Ph.D	1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7, 10 and 12-35 is/are pending in the application.
- 4a) Of the above claim(s) 12-35 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Office Action mailed 7/17/2006 has been vacated. Finality of the last Office Action is withdrawn. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. This office action is also in response to the amendment and remarks filed on 4/27/06. Claims 7 and 10 have been amended. Therefore, claims 7, 10 and 12-35 are currently pending. Claims 12, 13, 15-17, 19-21, 23-25, 27-29, 31-33 and 35 remain withdrawn. Claims 7 and 10 are examined.

2. The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior Office action.

3. Applicant's declaration filed under Rule 131 has been fully considered.

4. Any objection or rejection of record, which is not expressly repeated in this action, has been overcome by Applicant's response and withdrawn.

Claim Rejections - 35 USC § 102 (New)

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 1647

5a. Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Eisenbach-Schwartz et al. (U.S. Patent No. 6, 126, 939).

Claim is drawn to a pharmaceutical composition comprising a polypeptide of consisting the following sequence of amino acids Arg-Glu-Arg.

Eisenbach-Schwartz et al. disclose anti-inflammatory tripeptide Arg-Glu-Arg (column 3, lines 30-31). It also discloses pharmaceutical composition comprising a pharmaceutically acceptable carrier and a peptide or peptide derivative (column 4, lines 18-22). Therefore, claim 10 is anticipated by Eisenbach-Schwartz et al. (U.S. Patent No. 6, 126, 939).

5b. Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Feige et al. (U.S. Patent No. 6, 660, 843).

Claim is drawn to a pharmaceutical composition comprising a polypeptide of consisting the following sequence of amino acids Arg-Glu-Arg.

Feige et al. disclose macrophage and/or T-cell inhibiting peptide Arg-Glu-Arg (column 37, Table 19). The reference also discloses pharmaceutical agents using biologically active peptide (abstract). Therefore, claim 10 is anticipated by Feige et al. (U.S. Patent No. 6, 660, 843).

Conclusion

6. Claim 7 is allowable. Claim 10 remains rejected. Since, not all product claims are allowable claims 14, 18, 22, 26, 30 and 34 are not rejoined.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jegatheesan Seharaseyon, Ph.D whose telephone number is 571-272-0892. The examiner can normally be reached on M-F: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS
Art Unit 1647,
November, 30 2006

**CHRISTINE J. SAOUD
PRIMARY EXAMINER**

Christine J. Saoud